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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,411	02/08/2002	Timothy R. Baker	135 P 090	2899

26568 7590 06/10/2003

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200 WEST ADAMS STREET  
CHICAGO, IL 60606

EXAMINER
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VALENZA, JOSEPH E

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 06/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/072,411

Applicant(s)

BAKER ET AL

Examiner

Joseph Valenza

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 4-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,6,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 4-17 are withdrawn from further consideration pursuant to 37 CFR

1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 9.

2. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drake in view of Lem et al. <sup>1,247</sup>

It would have been obvious to replace the endless pusher 7 with separate article supports 9 of Drake with the multiple endless belts 14 of Lem et al because they both are used to convey rectangular articles in a selective delivery environment. Note that elongated track 16, 17 receives mounting members 18, 19 of redirecting accessory 20. With regard to claim 2, the design of the track and mounting member has not been shown to be critical to the operation of the system and are, therefore, matters of choice over the functionally equivalent elements in Drake.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drake in view of Lem et al and Clopton.

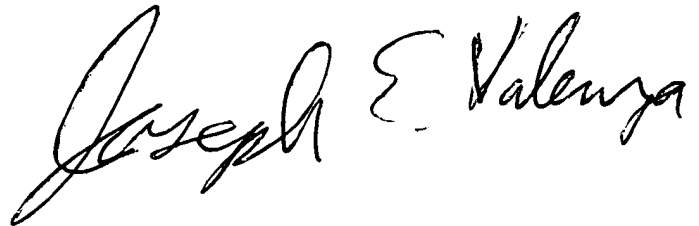
It would have been obvious to add the teachings of U-shaped tracks (surrounding slot 56) of Clopton and slide plate accessory mounting means 72 of Clopton to the frame members 16, 17 of Drake in the structure of paragraph 2.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drake in view of Lem et al and Norton.

Art Unit: 3651

It would have been obvious to add the teachings external accessory mounting holes (unnumbered) in members 34 of Norton to the frame members 16, 17 of Drake in the structure of paragraph 2.

5. Any inquiry concerning this communication should be directed to Joseph E. Valenza at telephone number (703) 308-2577. Amendments may be faxed to 703-305-7687. My normal workweek is Monday through Thursday.

A handwritten signature in black ink that reads "Joseph E. Valenza". The signature is written in a cursive, flowing style.

JOSEPH E. VALENZA  
PRIMARY EXAMINER